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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,603	10/22/2003	Frederic Duquet	Q73802	6096
23373	7590	10/13/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NIT

<b>Office Action Summary</b>	<b>Application No.</b> 10/689,603	<b>Applicant(s)</b> DUQUET, FREDERIC	
	<b>Examiner</b> LIEN TM NGO	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 and 16-22 is/are pending in the application.  
     4a) Of the above claim(s) 10 and 12 is/are withdrawn from consideration.  
 5) ☒ Claim(s) 16 and 21 is/are allowed.  
 6) ☒ Claim(s) 1, 2, 11, 13, 14, 17, 19, 20 and 22 is/are rejected.  
 7) ☒ Claim(s) 3-9 and 18 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 and 20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“the back plate” and “the front plate” in the claims lack antecedent basis.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent; except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 11, 13, 20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Duquet et al. (6,977,355). Duquet et al. disclose, in figs. 3 a-c, a fluid dispenser comprising a fluid reservoir (12) of variable volume, said reservoir defining at least one movable wall that can be moved to vary the volume of the reservoir, the dispenser further comprising a dispensing orifice (234) in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; said fluid dispenser being characterized in

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that it further comprises actuating means (62, 75, 76) making it possible, in a first stage fig. 13c , to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage (fig. 9), to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone (75") and a backing zone (76"), the press zone being moved towards the backing zone generating an increase and then a decrease in the volume of the reservoir. The reservoir contains a porous material 234, a removable closure 6. The back plate has rigidity and the front plate is bendable (see figs. 6 a&b).

5. Claims 1, 2, 13-14, 17, 19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Rendle et al. (2004/536). Rendle et al. disclose, in figs. 2 and 3, A fluid dispenser comprising a fluid reservoir 18 of variable volume, said reservoir defining at least one movable wall 12, 14 that can be moved to vary the volume of the reservoir; a dispensing orifice 20 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 16 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone (one end 16) and a backing zone (another end 16) , when the press zone being moved towards the backing zone, it is capable of generating an increase in the volume of the reservoir and then a decrease in the volume of the reservoir by bending the dispenser toward wall 14; and a removable closure member 42 is initially positioned over the dispensing orifice.

6. Claims 1, 2, 13-14, 17, 19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Beguhn (4,236,652). Beguhn discloses, in figs. 3 and 4, A fluid dispenser comprising a fluid reservoir 13 of variable volume, said reservoir defining at least one movable wall 11, 12 that can be moved to vary the volume of the reservoir; a dispensing orifice 16 in communication with the reservoir so that fluid from the reservoir can be delivered through the dispensing orifice when the volume of the reservoir is reduced; an actuating means 30 making it possible, in a first stage, to increase the volume of the reservoir by drawing air into the reservoir, and then, in a second stage, to reduce the volume of the reservoir by delivering air and fluid through the dispensing orifice; the actuating means comprise a press zone (one end 30) and a backing zone (another end 30), when the press zone being moved towards the backing zone, it is capable of generating an increase and then a decrease in the volume of the reservoir by bending the dispenser toward wall 11; and a removable closure member (core area) is initially positioned over the dispensing orifice.

***Allowable Subject Matter***

7. Claims 16 and 21 are allowed.

8. Claims 3-9 and 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 7/25/06 have been fully considered but they are not persuasive as alleged by examiner in the rejections above.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

October 11, 2006

